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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,009	02/11/2004	Yun Xu	00216-643001 / T-732	3413

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EXAMINER

VANIK, DAVID L

ART UNIT PAPER NUMBER

1615

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/777,009

Applicant(s)

XU ET AL.

Examiner

David L. Vanik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/2/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Receipt is acknowledged of the Applicant's Remarks and Amended Claims filed on 1/17/2006.

The 35 USC §103 rejections over US Patent 5,587,156 ('156) in view of WO 02/087519 ('519) are hereby **maintained**. However, the §103 rejections over US Publication 2003/0124083 ('083) in view of WO 02/087519 ('519) are hereby **maintained**.

### MAINTAINED REJECTIONS:

The following is a list of maintained rejections:

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-13 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,587,156 ('156) in view of WO 02/087519 ('519).

'156 teach shaving compositions and methods of using said shaving compositions (abstract). The compositions advanced by '156 comprise a wetting agent, a cleansing agent, and an insoluble particulate additive (claim 1). About 0.1% to about 20% of the insoluble particulate additive can be added to the shaving composition (claims 6-7). According to '156, the particulate material can comprise polytetrafluorethylene (claim 8, column 6, lines 37-46). The particulate material can be between 10 – 1000 microns (claims 3-5). The shaving composition may be in the form of a gel or cream (abstract). Based on claims 1-8, it is the examiner's position that the composition is substantially free of anionic polymers.

'156 does not teach a shaving composition comprising a polyethylene oxide and natural or synthetic gum water-soluble polymer.

'519 teach shaving compositions comprising polyethylene oxide and natural or synthetic gum water-soluble polymers (abstract and page 5, lines 2-7). According to '519, the shaving compositions can comprise 0.005 to 10% of the water-soluble polymer and the molecular weight of the polymer can be over a million (abstract and page 5,

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lines 27-36). If added to the composition set forth by '156, the particulate material and water soluble polymer can be present in a ratio between 0.25:1 to about 3:1.

According to '519, it is beneficial to add polyethylene oxide and natural or synthetic gum water-soluble polymers to a shaving composition because they "interact synergistically to substantially increase the stress ratio of the shaving composition, thereby reducing the coefficient of friction between the cartridge and the razor" (page 5, lines 2-7). This enhances shaving performance (page 1, lines 4-9). Because the addition of polyethylene oxide and natural or synthetic gum water soluble polymers to a shaving cream lotion enhances shaving performance, one of ordinary skill in the art would have been motivated to add polyethylene oxide and natural or synthetic gum water soluble polymers to the composition advanced by '156. Based on the teachings of '519, there is a reasonable expectation that the addition of polyethylene oxide and natural or synthetic gum water-soluble polymers to a shaving cream lotion would enhance shaving performance. As such, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add polyethylene oxide and natural or synthetic gum water-soluble polymers to the invention advanced by '156 in view of the teachings of '519.

### ***Response to Arguments***

Applicant's arguments filed on 1/17/2006 have been fully considered but they are not persuasive. In response to the 8/1/2005 Non-Final Rejection, Applicant has

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asserted that the neither '156 nor '519 teach a method of shaving comprising applying a composition with a lubricating particle to water soluble polymer ratio of about either 0.1:1 to about 10:1 or a ratio of about 0.25:1 to 3:1 to the skin. The examiner respectfully disagrees with this assertion.

As set forth in '156, the insoluble particulates may be present in the shaving composition in an amount from 0.1% to about 20% by weight (claim 6 and column 3, lines 30-41). Thus, '156 recognizes that a broad range of insoluble particles may be added to a shaving composition so long as the particles are present in an amount capable of providing support for a razor blade (column 3, lines 31-36). It is the examiner's position that this meets the limitation of 0.005% to about 2% of water-insoluble polymer particles as set forth in the instant claim 32.

With respect to the ratio of water soluble to water insoluble polymers, it is the examiner's position that both '156 and '519 provide motivation for one of skill in the art to meet the ratios advanced in the instant claims 1 and 4. As set forth in '156, 0.12 by weight of PVP may be used in the shaving composition (See examples 1-2). Based on the 0.1% to about 20% by weight of insoluble polymers advanced in '156, it is the examiner's position that one of ordinary skill in the art at the time the invention was made would have the ability to modify the amount of water insoluble particles such that the ratio of water soluble polymer and water insoluble particles are within the range of the instant claims 1 and 4 (claim 6 and column 3, lines 30-41). This is because the amount of water insoluble polymers can be varied from 0.1% to about 20% based on particular application so long as the particles are present in an amount capable of

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providing support for a razor blade (column 3, lines 31-36). For example, if 0.1% of water insoluble particle was used with 0.12% of PVP, the ratio would be 1:1.2, an amount that falls within the range advanced by the instant claims 1 and 4.

It is the examiner's position that '519 also provides motivation for varying the amount of water soluble polymer in the shaving composition set forth in '156. As a general matter, according to '519, it is beneficial to add polyethylene oxide and natural or synthetic gum water-soluble polymers to a shaving composition because they "interact synergistically to substantially increase the stress ratio of the shaving composition, thereby reducing the coefficient of friction between the cartridge and the razor" (page 5, lines 2-7). This enhances shaving performance (page 1, lines 4-9). Specifically, '519 remarks that the amount of water soluble polymer is preferably between 0.1 to 5% (column 5, lines 27-37 and examples 1-18). Moreover, the amount of water soluble polymers varies on the basis of whether the shaving composition is a gel, cream, foam, or lotion (page 5, lines 27-37 and examples 1-18). As such, one of ordinary skill in the art at the time the invention was made would have the ability to modify the amount of water soluble polymer on the basis of whether the composition is a gel, cream, foam, or lotion (page 5, lines 27-37). Thus, it is the examiner's position that one of ordinary skill in the art would have the ability to vary the ratio of water soluble polymer to insoluble particles based on the desired stress ratio (in excess of 3.0, 4.0, or 5.0) as well as an amount such that the particles are present in an amount capable of providing support for a razor blade (column 3, lines 31-36 of '156 and page 5, lines 27-37 of '519). On this basis and considering the teaching of Examples 1-18, the ratio of

insoluble particles and water soluble polymer would fall within the range of the instant claims 1 and 4.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Vanik whose telephone number is (571) 272-3104. The examiner can normally be reached on Monday-Friday 8:30 AM - 5:00 PM.

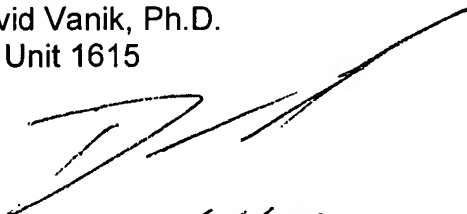
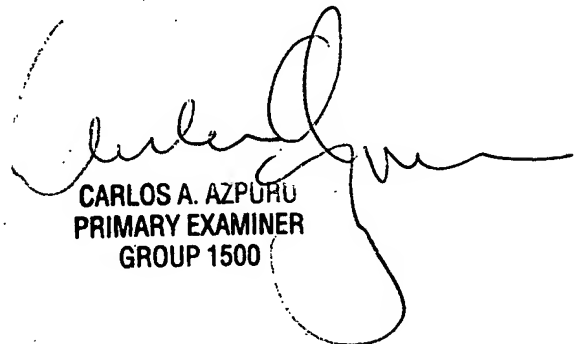


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carlos Azpuru, can be reached at (571) 272-0588. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Vanik, Ph.D.  
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3/21/06  
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